IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.7590 of 2016 (O&M)
Date of decision: 09.04.2019

National Insurance Co. Ltd. ... Appellant

Versus

Smt. Shakuntla and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Satpal Dhamija, Advocate
for the insurance company.

Mr. Ashwani Arora, Advocate
for the claimants.

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REKHA MITTAL, J. (Oral)

CM No.25763-CII of 2016

Heard.

Allowed as prayed for. Delay of 24 days in filing the appeal stands condoned.

Main Case

The present appeal directs challenge against award dated 18.07.2016 passed by the Motor Accidents Claims Tribunal, Chandigarh whereby compensation has been assessed on account of death of Mohinder Singh in a motor vehicular accident that took place on 13.09.2015.

Counsel for the appellant-insurance company would inform that the appeal has been preferred to assail only quantum of compensation assessed by the Tribunal.

The Tribunal has awarded Rs. 67,05,180/-, detailed hereinunder:-

Monthly income of the deceased	Rs.60,669/-
Addition in income for future prospects	15%
Deduction of Income tax	Rs.48,722/-
Deduction for personal expenses	1/4th
Multiplier	11
Loss of dependency	Rs.65,05,180/-
Loss of consortium	Rs.1,00,000/-
Funeral expenses	Rs.25,000/-
Love and affection to claimants No.2 to 4	Rs.75,000/- (Rs. 25,000/- each)

Counsel for the insurance company would argue that the deceased was 54 years 10 months old at the time of occurrence and he was due to retire in the next 3 years and 2 months, therefore, split multiplier is liable to applied for computing loss of dependency. Another submission made by counsel is that compensation allowed under conventional heads should be restricted to Rs.70,000/- in the light of judgment passed by Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**. The last submission made by counsel is that the Tribunal has awarded interest @ 9% per annum in case compensation is not deposited within 30 days but otherwise same would be @ 7.5% per annum. It is argued that penal interest allowed by the Tribunal cannot be allowed to sustain in the light of judgment of Hon'ble the Supreme Court **National Insurance Co. Ltd VS. Keshav Bahadur and ors., 2004(2) RCR (Civil) 99.**

Counsel representing the claimants, on the contrary, has refutted contention of the insurance company with regard to split multiplier by relying upon judgment of this Court **United India Insurance Company Limited Vs. Baldev Singh and others, FAO No.5025 of 2015 along wtih connected case, decided on 23.11.2016.** It is argued that in **Baldev Singh and others's case (supra)**, this Court has discussed various judgments of Hon'ble the Supreme Court wherein the Court has rejected application of strict multiplier.

Undenyingly, the deceased was due to retire on superannuation after about 3 years of the occurrence as he was 54 years 10 months old at the time of death. However, in view of the ratio laid down in **Baldev Singh and others's case (supra),** it is difficult to accept contention of the insurance company that split multiplier is to be applied for computing loss of dependency. The Tribunal has rightly allowed addition for future prospects, deduction for personal expenses and multiplier of 11 for computing loss of dependency and as such, compensation computed for loss of dependency to the tune of Rs.65,05,180/- is affirmed.

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.70,000/-, detailed hereunder:-

1. Loss of consortium	Rs.40,000/-
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

In view of the above, compensation assessed by the Tribunal is reduced to the extent of Rs.1,30,000/-. The insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

The Tribunal has allowed interest @ 9% per annum in case the amount is not deposited within 30 days but the same would carry interest @ 7.5 % per annum in case deposited within the stipulated period. This penal clause with regard to payment of higher rate of interest on failure to deposit compensation within 30 days cannot be allowed to sustain when examined in the light of judgment in **Keshav Bahadur and ors's case (supra).** Accordingly, interest @ 7.5% per annum shall be payable on compensation assessed by this Court from the date of petition till realization.

In view of what has been discussed hereinbefore, the appeal is partly allowed in the aforesaid terms.

09.04.2019 **(REKHA MITTAL)**
ashok **JUDGE**

Whether speaking/reasoned: Yes / No
Whether reportable: Yes / No